

PTO/SE/97 (08-00)

Approved for use through 10/31/2002. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

**Attorney Docket No.: 53394.000752**

**Application No.: 10/817,427**

**Certificate of Transmission under 37 CFR 1.8**

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office (703 872-9306)

on July 8, 2005  
Date

  
Signature:

Scott F. Yarnell

Typed or printed name of person signing Certificate

Note: Each paper must have its own certificate of transmission, or this certificate must identify each submitted paper.

1. Certificate of Transmission (1 pp)
2. RESPONSE TO ELECTION/RESTRICTIONS (3 pp)

**TOTAL PAGES: 04**

RECEIVED  
CENTRAL FAX CENTER

JUL 08 2005

Burden Hour Statement: This form is estimated to take 0.03 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED  
CENTRAL FAX CENTER

JUL 08 2005

In re Patent Application of :	)	Confirmation No.: 1308
Andrew Baker	)	Group Art Unit: 3761
Application No.: 10/817,427	)	Examiner: Michele M. Kidwell
Filed: April 5, 2004	)	
For: ABSORBENT ARTICLE HAVING	)	
AN IDEAL CORE DISTRIBUTION	)	
AND METHOD OF PREPARING SAME	)	

RESPONSE TO ELECTION/RESTRICTIONS

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the Office Action mailed June 8, 2005, Applicant hereby traverses the restriction requirement and requests reconsideration and withdrawal of said restriction requirement.

SUMMARY OF RESTRICTION REQUIREMENT

The Examiner has required Applicant under 35 U.S.C. § 121 to elect one of two groups of claims:

- I. Claims 1-40 and 69-74, drawn to an absorbent article.
- II. Claims 41-68 and 75-76, drawn to a process for preparing an absorbent article.

In particular, the Examiner alleges as follows:

Application No.: 10/817,427  
Attorney Docket No. 53394.000752

Inventions I and II are related as process of making and product made. The inventions in this relationship are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different process or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the product could be made without forming a core according to a predetermined maximum Distribution index or without a specific Distribution Index.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art shown by their different classification, restriction for examination purposes as indicated is proper.

See Office Action, pages 2-3.

### ELECTION

In the event that the restriction requirement is not withdrawn, Applicant hereby provisionally elects the claims of Invention Group I, Claims 1-40 and 69-74, with traverse.

### TRAVERSAL

Applicant respectfully traverses the Examiner's restriction requirement, as follows. A requirement for restriction is only proper when a serious burden is placed on the Examiner. Applicant respectfully submits that a search and examination of all claims may be made without imposing a serious burden on the Examiner. Further, an important advantage in pursuing just one application encompassing all of the invention groups cited by the Examiner is that the examination work of the U.S. Patent and Trademark Office would be simplified, insofar as duplication of searching effort would be eliminated.

Application No.: 10/817,427  
Attorney Docket No. 53394.000752

Moreover, applicant respectfully submits that the claims of the designated groups have not acquired a separate status in the art for examination purposes. In particular, the Examiner has failed to establish separate status in the art by citing patents which are evidence of such separate status, or showing separate fields of search. Art very relevant to the patentability of the compositions might very logically be found in the art classes assigned to the process and apparatus claims. The classification cited in support of the election requirement is merely used for cataloging purposes and it is not conclusive of the propriety of such a requirement.

Accordingly, the restriction requirement will serve no purpose other than to unfairly and improperly require applicants to pay duplicative PTO fees to obtain patent protection for their invention.

Applicant believes that no fees are necessary in connection with the filing of this document. In the event any fees are necessary, please charge or credit any such fees, including fees for any extensions of time, to the undersigned's Deposit Account No. 50-0206.

In view of the above remarks, It is thus respectfully requested that the restriction requirement be withdrawn and that all claims be allowed to be prosecuted in the same application.

Respectfully submitted,

HUNTON & WILLIAMS

Dated: July 8, 2005

By: Scott Farnell  
Christopher C. Campbell  
Registration No. 37,291  
Scott F. Yarnell  
Registration No. 45,245

SFY/dkt  
Hunton & Williams  
Intellectual Property Department  
1900 K Street, NW, Suite 1200  
Washington, D.C. 20006-1109  
(202) 955-1500 (Telephone)  
(202) 778-2201 (Facsimile)